

GRAY

TELEVISION, INC.

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May 14, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: 2002 Biennial Regulatory Review—Review of the Commission's
Broadcast Ownership Rules, MB Docket No. 02-277**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, I hereby submit two copies of this letter to supplement the record in the above-referenced proceeding. Specifically, the purpose of this letter is to provide specific details to support Gray Television, Inc.'s position that the need for relief from local television ownership restrictions is most acute in smaller and mid-sized markets.

Gray Television, Inc. ("Gray"), the nation's largest owner/operator of television stations in mid-sized and smaller markets, is well aware of the increasing financial pressures over-the-air broadcasters face and the critical need to achieve operating efficiencies in order to remain viable competitors. Those pressures have only increased in the years since the last modification of the local TV ownership rule. Accordingly, Gray believes that it is critically important that the Commission relax restrictions on local television station ownership to a sufficient degree to permit meaningful relief in mid-sized and smaller markets. In particular, while a "Top 4" restriction may make sense in larger markets, it would gut regulatory relief in mid-sized and smaller markets, where profit margins are much lower and the need for regulatory stimulus far greater.

The Top 4 component of the current duopoly rule was premised in large part on the assumption that it would preserve separate local newscasts.¹ And while local news historically has been a profit center for broadcasters, viewership and ad revenues have declined dramatically in the face of increasing competition for cable and satellite services and other new competitors. These financial pressures, in turn, lead to cuts in staffing, greater reliance on syndicated features and other non-local services, and, in some cases, the loss of local news programming altogether.²

¹ See, e.g., *Review of the Commission's Regulations Governing Television Broadcasting: Television Satellite Stations Review of Policy and Rules*, Report and Order, 14 FCC Rcd 12903, 12933 (1999) (noting that its "analysis has indicated that the top four-ranked stations in each market generally have a local newscast").

² According to one Commenter, "[t]his competition combined with worsening financial conditions has caused television stations in both large and small markets to terminate almost 40 local newscasts." Comments of

Indeed, in nearly 60 percent – 14 out of 24 – of the markets in which Gray operates, at least one of the top-four-rated stations does not produce and broadcast its own regularly scheduled full-length local newscast, as indicated in the attached chart. Maintenance of a Top 4 restriction will only serve to ensure that this remains the case.

On the other hand, permitting combinations involving one of the three leading stations and the fourth would yield significant benefits in terms of new or enhanced local news and other public interest programming services. If permitted under a “5 Stations, No Top 3 Combinations” standard, for example, these additional ownership combinations would have no appreciable adverse impact on diversity and would enhance local service. Moreover, this standard would represent a meaningful departure from the “8 Voices, Top 4 Limit” vacated by the Court of Appeals.³

Specifically, under a “5 Stations, No Top 3 Combinations” approach, approximately 18 additional markets would be able to enjoy the benefits of duopoly operations, but all would still have at least four separately owned TV stations (including one or more noncommercial voices).

Media General, Inc., MB Docket No. 02-277, at 60 (filed Jan. 2, 2003) (citation omitted); *see also* Comments of Gray Television, Inc., MB Docket No. 02-277, at 18 (filed Jan. 2, 2003) (discussing “numerous examples of smaller market stations that have shut down or significantly scaled back their local news operations due to financial concerns”).

³ See generally *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

More importantly, broadcasters would be free to pursue duopoly combinations that would strengthen station viability, engender support and interest from the financial community, and foster enhanced local news service.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,


Robert A. Beizer

Attachment

cc: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein
Susan M. Eid, Legal Advisor to Chairman Powell
Stacy Robinson, Legal Advisor to Commissioner Abernathy
Jordan Goldstein, Legal Advisor to Commissioner Copps
Catherine Crutcher Bohigian, Legal Advisor to Commissioner Martin
Johanna Mikes, Legal Advisor to Commissioner Adelstein
W. Kenneth Ferree, Media Bureau Chief
Paul Gallant, Special Advisor, Media Ownership Working Group
Linda Senecal (via hand delivery and email)
Mania Baghdadi (via hand delivery and email)

GRAY COMMUNICATIONS MARKET CHART

MARKET NAME	RANK	NUMBER OF COMMERCIAL STATIONS	NUMBER OF NON- COMMERCIAL STATIONS	TOTAL NUMBER OF STATIONS	TOP FOUR STATION(S) W/O NEWS*
Knoxville, TN	62	7	2	9	
Wichita-Hutchinson, KS	65	10	3	13	
Lexington, KY	66	7	4	11	WDKY-TV (Fox)
Omaha, NE	75	5	3	8	
Madison, WI	85	5	1	6	
Colorado Springs, CO	91	4	1	5	KXRM-TV (Fox)
Waco-Temple-Bryan, TX	94	5	3	8	KWKT (Fox)
Lincoln-Hastings Kearney, NE	102	6	4	10	
Greenville-New Bern- Washington, NC	106	7	3	10	WFXI (Fox)
Reno, NV	110	7	1	8	KRXI (Fox)
Lansing,, MI	111	5	1	6	WLAJ (ABC)
Tallahassee, FL	113	5	1	6	WTLH (Fox); WTWC-TV (NBC)
Augusta, GA	114	4	2	6	WFXG (Fox)
La Crosse-Eau Claire, WI	127	6	1	7	WLAX (Fox)
Rockford, IL	132	4	0	4	WQRF-TV (Fox)
Wausau-Rhineland, WI	137	6	2	8	
Topeka, KS	138	3	1	4	KTCA-TV (ABC)
Panama City, FL	159	5	1	6	WPGX (Fox)
Sherman, TX-Ada, OK	160	2	0	2	
Dothan, AL	172	3	0	3	WDFX (Fox)
Harrisonburg, VA	178	1	1	2	
Bowling Green, KY	181	2	2	4	
Meridian, MS	185	3	1	4	WGBC (NBC)
Parkersburg, WV	186	1	0	1	

Sources: Broadcasting and Cable Yearbook 2002-2003; Gray internal sources.

Note: The totals indicated above do not include satellite stations.

* The stations listed do not produce and broadcast their own regularly scheduled full-length local newscasts.